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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,351	06/19/2000	Uwe Bunte	2598/207-150	4114

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/597,351	Applicant(s) BUNTE, UWE	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 15, 2004 has been entered.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on March 12, 2004 have been disapproved. Proposed amendment to Fig. 4 raises question of new matter. For example, Proposed Fig. 4 shows a reference numeral 15 with lead line to a specific area. However, the specification as originally filed does not set forth any specific area within which the "expansible shaped element 8" may expand with the specification originally reciting "...expands in a...direction, namely in an open gap between the two half shells, in the direction of the adjacent inner wall 12". No specific mention is made of the "expansible shaped element 8" expanding in a direction which would include that area designated by reference numeral 15 in the proposed drawing correction. To this end, it is not clear as to why either of the "first-half shell" 1 and the "expansible shaped element" 8 do not extend as far left in Fig. 4 as the "second-half shell" 9 particularly if Fig. 4 is characterized as showing a cross section of an assembly as along line IV-IV.

As for the proposed changes to Fig. 4, the proposed changes do not appear to reflect changes to original Fig. 4. Applicant is reminded that the previously proposed drawing changes have not been approved. Piecemeal changes to the drawing figures will not be accepted. Such changes would only serve to confuse the record. Also, it is not apparent as to why reference numerals 1 and 12 are being rearranged within the proposed Fig. 4.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numeral 15 as well as reference to a line IV-IV of drawing figures 1-3. *A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.*

Applicant is reminded that the proposed drawing corrections of August 13, 2001; February 05, 2002; March 26, 2003; and September 22, 2003 have not been approved.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "said heat-expansible element... retained around said inner contour" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Specification

The amendment filed March 12, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: language directed to "latching web 10...is configured to interact with the latching opening 4".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5 and 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear clear and complete as to "said latching device comprising a latching opening and a corresponding latching rib". The specification does not describe any features of the so called "latching device" or "latching opening" or "latching rib". The amendment to the specification appears to now state that a "latching web" 10 is configured to interact with a "latching opening" 4. However, no specific details are presented as to how such

an interaction would occur. And, it is not clear that the "latching web" 10 and "latching opening" 4 are the "latching rib" or "latching opening" which form the "latching device". The specification appears to define only the "latching cylinders" and corresponding "mushroom-shaped latching elements" as serving to hold, or latch, the two halves of the "retaining device". The specification is not, at all, clear as to how either or both of the "latching opening" or the "latching rib" serve to hold, or latch, the two halves of the "retaining device".

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 7, 19, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to how the "latching device connects said half-shells to an inner wall of a cavity to be sealed" as is now recited in each of claims 7 and 21. How would the "latching device" connect said half-shells to an inner wall of a cavity to be sealed? The specification and claims, otherwise, appear to define the "latching device" as formed of both the latching cylinder 3 and mushroom-shaped latching element 11 along the inner surfaces of both half-shells. Further, the specification is not clear as to a "latching device" being formed of "a latching opening and a corresponding latching rib" as is now recited in each of claims 5 and 19.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371⁹ of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 4, 7-10, 15, 16, 18, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Miura et al. Miura et al. shows, Fig. 4, retaining device formed by two half-shells 12/14 and 16/11 "latched to one another" via a "latching device" along inner surfaces thereof, col. 2, line 38 and col. 3, line 16, with an expansible shaped element 15, (or 5 as shown in Fig. 2B), of a contoured ring-like plate inserted within the retaining device and disposed around an inner contour of the device. The expansible element expanding under the influence of heat, col. 3, lines 12-14. A "further material free space" is established in areas of the latching device, or where half-shell 12/14 latches to half-shell 16/11.

Claims 1-4, 6-10, 15-18, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al. Hull et al. shows, Fig. 2 and 7 for example, retaining device formed by two half-shells 20 and 16 with an expansible shaped element, (seen along either side of latching means 18 of Fig. 2), of a contoured ring-like plate inserted within the retaining device and disposed around an inner contour, (shown by 22 for example), of the device. Latching devices 40/48 and 18 are disposed on inner surfaces of the half shells with element 18 possessing a mushroom-shape at 38. Latching cylinder being at 40/48. A "further material free space" in the area of the latching device is shown by Fig. 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-10, 15-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hull et al. in view of any of Steward et al. or Tusim et al. or Doerer or Wycech.

Each of Steward et al., Tusim et al., Doerer, and Wycech teach utilization of synthetic plastic material which material is or has been expanded under the application of heat, 14 of Steward et al., col. 1, lines 38-46 of Tusim et al., col. 1, line 61 to col. 2,

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line 8 of Doerer, and 44 of Wycech. To have formed the expansible shaped element of Hull et al. of a synthetic plastic which takes form under application of heat, thus utilizing any one of well known synthetic plastic foam materials as the filler element, would have constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by any of Steward et al. or Tusim et al. or Doerer or Wycech.

Response to Arguments

Applicant's arguments filed March 12, 2004 have been fully considered but they are not persuasive. Applicant's arguments with respect to the rejection of claims 1-4, 6-10, 15-18, 20, and 22-24 have been considered but are not deemed persuasive. Claims 1-10 and 15-24 are directed to a panel per se. As such, any reference to a specific environment would be moot. Otherwise reference is made to the Examiner's response to arguments of the Office action dated December 12, 2003.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
June 27, 2004